

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
May 15, 2014**

Approved

Minutes

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, May 15, 2014, beginning at 7:04pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The Roll was taken by the Secretary.

A. Roll Call

Present:

Mary Keegan-Cavagnaro, Chairwoman
Andy Howard, Town Attorney
Patrick Prendergast, Engineer
Peter Haemmerlein
Jake Samascott
William Butcher
Daniel Weiller
Guy Rivenburgh
Jason Graham
Nataly Dee, Secretary

Excused:

Chris Simonsen
Dale Berlin

Absent:

None

Mr. Weiller and Mr. Rivenburgh were invited to join the board as voting members to meet quorum requirements.

B. Correspondence

1. Review of Minutes:

March 20, 2014 – Meeting
April 10, 2014 – Workshop
April 17, 2014 – Meeting

The above listed minutes were tabled pending further review.

C. Public Hearings

The notice as it appeared in the paper of record was read by the secretary.

1. 7:05pm – Mark Cebula & Margaret Zollo, 10 Hidden Acres Rd, Valatie, NY
(Tax Map ID# 13.-1-31.22) – Minor Subdivision/Lot Line Adjustment;

A motion to open the Public Hearing was made by Mr. Samascott. Motion seconded by Mr. Weiller. All in favor. Motion carried: hearing opened.

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Mr. VanAlstyne, Land Surveyor, representing the applicant addressed the board and distributed plans for review. He described the location and history of the parcel with mention of the former Conservation Subdivision. The applicant is applying for a new Minor Subdivision/Lot Line Adjustment of the lot created by the prior Conservation Subdivision. This Conservation Subdivision had no vesting interest in that the lot had not been sold, built upon, nor any other action taken. The proposal is to enlarge the lot from 2.1 acres to a code conforming 2.5 acres by shifting the lot line slightly to the west. The remaining 24 acres of the prior Conservation Subdivision would remain intact, just slightly smaller in size. The Conservation Easement would be removed from the larger parcel. He noted that all prior studies regarding drainage, septic specifications and locations, etc. still apply to this application.

The Chairwoman invited the public to address the board and speak in regard to this application.

Mr. Peter Endryck addressed the board and inquired as to the purpose of removing the conservation; is there an intent to further subdivide. Mr. VanAlstyne stated that he did not know that for a fact. Additionally, he noted that access to the parcels is very limited and any future proposals would have to go through the Planning Board for approval. Mr. Endryck also enquired whether there would be a change to the access of the parcel. The criteria for future subdivision of the larger parcel were reviewed. Mr. Howard stated that the applicant would have to comply with zoning regulations. Attention was brought to a note on the plans regarding highway specifications and zoning regulations. The deeds of the properties and existing easements were reviewed.

As there was no one else who wished to address the board, a motion to close the Public Hearing was made by Mr. Samascott. Motion seconded by Mr. Weiller. All in favor. Motion carried; hearing closed.

Part II: Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney. It was noted that this is an unlisted action.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact may occur. The application is in accordance with the Town of Kinderhook Zoning Code as it is presently constituted.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact may occur.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no or small impact may occur.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no or small impact may occur.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact may occur. Any construction occurring on this site will need to be in accordance with the NYS Building and Energy Code.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no.*

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- b. public / private wastewater treatment? *Proposed answer is no.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact may occur.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact may occur.*

Those are the proposed answers for the board's consideration. If the board was so inclined they could entertain a motion of negative declaration.

A motion to issue a Negative Declaration was made Mr. Samascott. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; declaration issued.

A motion to approve the application as submitted was made by Mr. Rivenburgh. Motion seconded by Mr. Samascott. All in favor. Motion carried. Application approved.

Fees in the amount of \$200 were submitted.

2. 7:15pm – Tal & Holly Rappleyea, 23 Fordham Road, Valatie, NY
(Tax Map ID# 32.-1-15.112) – Minor Subdivision;

A motion to open the Public Hearing was made by Mr. Samascott. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; hearing opened.

Mr. VanAlstyne, Land Surveyor, representing the applicant addressed the board and distributed plans for review. He described the location of the property and parameters of the proposal. This is a 10.7 acre triangular lot on the corners of County Route 21, Bishop Nelson Road, and Fordam Road. The applicant is seeking to subdivide a 2.5 acres lot off from the rest on the corner of Bishop Nelson Rd and Fordam Rd. Department of Health approval was received for the septs and wells. Department of Transportation approval was received for proposed curb cuts. There is an existing home on the main parcel. No further subdivision will occur on the parcels.

The Chairwoman invited the public to address the board and speak in regard to this application. There was no one in attendance who wished to address the board.

A motion to close the Public Hearing was made by Mr. Rivenburgh. Motion seconded by Mr. Graham. All in favor. Motion carried; hearing closed.

Part II: Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney. It was noted that this is an unlisted action with uncoordinated review from the interested and involved agencies.

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1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact may occur. The application is in accordance with the Town of Kinderhook Zoning Code as it is presently constituted.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no or small impact may occur. This constitutes the maximum development that can occur on the Rappleyea's properties and is in accordance with the Zoning Code.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no. It meets the permitted uses within the zone.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no or small impact may occur.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact may occur. Any construction occurring on this site will need to be in accordance with the NYS Building and Energy Code.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no.*
 - b. public / private wastewater treatment? *Proposed answer is no. Approval received from Columbia County Health Department.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact.*
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact may occur.*
11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact may occur.*

Those are the proposed answers for the board's consideration. If the board was so inclined they could entertain a motion of negative declaration.

A motion to issue a Negative Declaration was made by Mr. Haemmerlein. Motion seconded by Mr. Graham. All in favor. Motion carried; declaration issued.

A motion to approve application as submitted was made by Mr. Rivenburgh. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; application approved.

Fees in the amount of \$400 were submitted.

3. 7:30pm – Glenn & Laura Herbert, 2 Mieske Rd, Kinderhook, NY
(Tax Map IDs: 54.-1-78) - Minor Subdivision/Lot Line Adjustment

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A motion to open the Public Hearing was made by Mr. Samascott. Motion seconded by Mr. Weiller. All in favor. Motion carried; hearing opened.

Mr. VanAlstyne, Land Surveyor, representing the applicant addressed the board and distributed plans for review. He described the location of the property and parameters of the proposal. The lots are located on County Route 21 and Mieske Road. Both lots are approximately 22.5 acres. He explained that there are two lots owned by the same family; the Herberts and Stanley Mieske. They would like to subdivide a 6.28 acre parcel off of one of the properties and merge the remaining 16 acres with the other parcel located to the south. The larger lot would be approximately 38 acres. They would like to sell the proposed smaller lot with the existing house and retain ownership of the remainder of the land. The subdivided parcel meets the required setbacks and lot size. No new wells, septs, or buildings are being proposed.

The Chairwoman invited the public to address the board and speak in regard to this application.

Mrs. Edith Quake sought a fuller understanding of what was going to happen. Specifically she inquired about the size of the lots and future development on the properties.

As there were no further comments from the public, a motion to close the Public Hearing was made by Mr. Butcher. Motion seconded by Mr. Weiller. All in favor. Motion carried; hearing closed.

Part II: Impact Assessment of the EAF (Short Form Environmental Assessment) was reviewed by the Attorney. It was noted that this is an unlisted action with uncoordinated review from the interested and involved agencies.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? *Proposed answer is no or small impact may occur.*
2. Will the proposed action result in a change in the use or intensity of use of land? *Proposed answer is no.*
3. Will the proposed action impair the character or quality of the existing community? *Proposed answer is no.*
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? *Proposed answer is no.*
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? *Proposed answer is no or small impact may occur.*
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? *Proposed answer is no or small impact may occur. Any building would occur in accordance with NYS Building and Energy Codes.*
7. Will the proposed action impact existing:
 - a. public / private water supplies? *Proposed answer is no.*
 - b. public / private wastewater treatment? *Proposed answer is no.*
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? *Proposed answer is no or small impact may occur.*
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, water bodies, groundwater, air quality, flora and fauna)? *Proposed answer is no or small impact may occur.*

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10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? *Proposed answer is no or small impact may occur may occur.*

11. Will the proposed action create a hazard to environmental resources or human health? *Proposed answer is no or small impact may occur.*

Those are the proposed answers for the board's consideration. If the board was so inclined they could entertain a motion of negative declaration.

A motion to issue a Negative Declaration was made by Mr. Samascott. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; declaration issued.

Mr. Weiller inquired about the authorization submitted by the current owners. It was noted that authorization was received from the applicant. Ownership of land would be handled by the execution of the new deed to the parcels.

A motion to approve the application as submitted was made by Mr. Weiller. Motion seconded by Mr. Graham. All in favor. Motion carried; declaration issued.

Fees in the amount of \$200 were submitted.

D. Old Business

1. Henry Kazer/Elle-Kaz, Inc: Major Subdivision - County Route 28, Valatie

Mr. Kazer addressed the board. He introduced Mr. Better, Attorney, Chad Lindberg of Taconic Engineering, and Mr. VanAlstyne, Land Surveyor, who have been working on the project. Mr. Kazer reminded the board of the parameters of the application which involve splitting the front section of the property along County Route 28 off from the rear, and then subdividing the front section into 9 separate parcels.

They have decided at this time to eliminate the proposed access road to reach the back parcels. There is a proposed private road to serve 4 different lots: two with existing houses and two new lots. The septic design, Erosion and Sediment Control Plan, and private road specifications based on the proposed specifications suggested by the Town Engineer were reviewed. Mr. Lindberg provided a brief narrative of the soils, noting that they consist of sand and light gravel and are high permeability: Class A soils. Very good soils for proposed use. Mr. Prendergast asked about proposed dry wells. Two on the north/high side are proposed. Topographical contours will be added to the plans. It was inquired as to whether there would be culverts under driveways. Culverts will be added as needed. Roadway elevations and roadway width (shown on another page of plans) will be shown. Mr. Prendergast spoke about the un-adopted private roads specifications proposal. A covenant and maintenance obligation to other property owners along the proposed private road which will be owned by lot 4 will be drafted. The paving specifications should be added. While it has been reviewed preliminary, they are still waiting for final approval from Department of Health. A Storm Water Permit will be filed with Department of Environmental Conservation and letter Notice of Intent will be submitted. An Erosion and Sediment Control Plan narrative will also be completed. They have received preliminary approval from County

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Highway Department for the requested curb cuts; final approval to follow. Mr. Haemmerlein inquired about access to lot 5. An error was noted regarding the access and will be corrected. Turnouts to conform to the fire code have been added to the existing private road. An easement will be needed for access to corner lot (lot 9) located on CR 28 and Orinsekwa Road.

If the board was comfortable with the design aspects they could entertain a motion to schedule a Public Hearing for the project.

A motion to schedule a Public Hearing on Thursday, June 19, 2014, at 7:05pm was made by Mr. Samascott. Motion seconded by Mr. Butcher. All in favor. Motion carried; hearing scheduled.

2. Ronald Jay Wills: Zoning Change – Route 9, Valatie;

The draft language provided by Mr. Howard was reviewed. Mr. Weiller inquired for clarity whether an application for a Home Occupation comes before the board for review. Yes, one would. Section 250-19(A) of the Code which talks about customary home occupations was reviewed. There was a discussion of the purpose of the subsection. The permitted nature basically addressed many of the issues brought up previously. For instance, it does not permit more than one home occupation on the lot, permitted in structures that are constructed and existing prior to the code. Mr. Howard explained the consideration of allowing someone to utilize one of the home occupation uses and have a waiver of the residency requirement where they had a preexisting structure. All other provision would still apply. To maintain consistency of current provision a reduction of the allowable size from 1500' to 500' was offered. A lengthy discussion ensued about the proposed size limitations and the merits thereof. Anything larger than what was proposed would need a variance. The idea of the language reflecting a percentage of total space not to exceed a certain amount was proposed and discussed. The current proposal being discussed would allow a home occupation intensity use, with all of the same requirements, to exist in a structure that has already been built. No new additions to an existing building or any new buildings would be created. Any exterior alterations to existing structures would be in accordance with Section 250-20-15(A)(8) and shall be residential in design. The discussion turned to the number of potential properties that would be affected by such a proposal. The exact number of properties conforming to the proposed language is unknown at this time, although informally it was thought to be low. Further discussion touched on the fact that a non- residential dwelling would not necessarily have services already in place and the ramification of that in regard to a size requirement. The matter of a potential increase in intensity was discussed. The discussion touched upon, but were not limited to, no outdoor storage, no more than one commercial vehicle, limited employees, one occupation, number of vehicle trips per day.

Mr. Weiller was of the opinion that any proposed language should reflect the current zoning restriction regarding the limitations of allowable size for home occupations. Ms. Keegan-Cavagnaro offered that some of the buildings that would qualify under this proposal are historic in nature and may benefit from such a proposal. Under the current zoning many of these buildings would be of no use. This proposal could provide these property owners with an opportunity to bring these historic buildings back to use.

Mr. Howard reviewed the proposed language for the board:

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The residency requirement set forth in subdivision (3) and (7)(e) shall not apply to the use of qualified structures or accessory structures. The permitted Home Occupation uses set forth in 250-19 (A)(7) shall be permitted within a non-residential structure or an accessory structure constructed and existing prior to the enactment of the Town Code on July 10, 1978. The extent of use within a qualified structure shall not exceed 1,500 square feet and in accordance with 250-19(A)(7) no more than one home occupation use may occur on a single parcel of property. No residential structure may be converted to a home occupation use pursuant to this section.

Further discussion ensued with specific mention to the proposed square footage requirements and the residency nature of a structure. Mr. Howard lauded the board for their thorough review of the matter.

A motion was made by Mr. Rivenburgh to forward the proposed recommendation on the matter as read by the attorney to the Town Board for their consideration. Motion seconded by Mr. Haemmerlein. The vote was as follows:

In Favor

Mary Keegan
Peter Haemmerlein
Jake Samascott
William Butcher
Guy Rivenburgh
Jason Graham

Opposed

None

Abstain

Daniel Weiller

Motion carried. Proposal as read by the attorney will be forwarded to the Town Board for their consideration.

Mr. Wills thanked the board for their consideration.

3. John Brosen: Minor Subdivision - Hennett Road

Mr. Brosen was not in attendance to represent his application.

E. New Business

1. Open Space Institute: Merger of Lands – US Route 9 and County Route 25, Kinderhook

Mr. VanAlstyne addressed the board and distributed plans for review. He described the location and parameters of the proposal. The applicant proposes to merge 4 lots into one. Two of the parcels are owned by Open Space Institute, two are owned by Jean Paul Courtens. The dimensions of the parcels were reviewed. If approved, Open Space Institute would convey their parcels to Mr. Courtens and one large lot would be created. They are endeavoring to reunite lots that were originally one prior to previous subdivision. A letter was submitted by the Parks Department indicating they are in favor of this proposal.

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A motion to schedule a Public Hearing for the application on Thursday, June 19, 2014, at 7:15pm was made by Mr. Haemmerlein. Motion seconded by Mr. Samascott. All in favor. Motion carried; hearing scheduled.

F. ZBA Opinions

None.

G. Liaisons

1. Village Planning Boards: Liaison was excused.

2. Town Board: A presentation was made by Holly Tanner which resulted in a resolution to have a local KISS (Keep Identities of Seniors Safe) shredding program for seniors the date of which will be announced and advertised when set.

3. NYSEG Project:

H. Other

1. Public Comment

An announcement was made about the opening of “The School” at the former Martin Van Buren school building on Saturday, May 17. Local residents are invited to attend.

A motion to adjourn was made by Mr. Samascott. Motion seconded by Mr. Weiller. All in favor. Motion carried; meeting adjourned at 9:15pm.

Respectfully submitted,

Nataly Dee